

Coram: S.K.Keshote, J.  
( 22nd December 1995 )

Order

Shri Ravi R. Tripathi for the petitioner. Shri  
D.A.Bhambania for the respondents.

2. Heard learned Counsel for the parties. Juniors were promoted on 26.11.1979. It is the petitioner's own case in the writ petition that respondent No.4 replied his representation on 25.9.1980 that the Departmental Promotion Committee did not consider him fit for promotion and as and when the petitioner would be found fit, he will be given promotion. His supersession in 1979 despite the fact that he has been informed of the same on 25.5.1980 was not challenged by the petitioner till 1992. When the petitioner filed his earlier writ petition before this Court, that petition has also been withdrawn by the petitioner to make a representation to the respondents in respect of his promotion. The petitioner's Counsel straightway prayed for withdrawal of the petition and did not argue the matter. By filing the earlier petition and withdrawing the same with liberty to file a representation, the petitioner could not have kept a dead horse alive. The learned Counsel for the petitioner argued that this Court had observed that, if the petitioner makes any representation to the respondent authorities, they may suitably consider the same and as such the case cannot be said to be dead or stale claim. Naturally, when a petition is filed and the same has been prayed to be withdrawn, such observations are made by the Court. But that does not mean that it is the Court's direction. It is not the case of the petitioner that his case for promotion was not considered by the respondents. The petitioner has a right of consideration for promotion and this right has not been denied to him. It was because of his unsatisfactory service record that the petitioner was not given promotion in 1979. I do not find any illegality in the said action which warrants any interference by this Court after more than 14 years. Over the assessment of the Departmental Promotion Committee, this Court will not sit as an appellate authority, more so when the petitioner has approached this court after 14 years.

3. In the result, this writ petition fails and the

same is dismissed. Rule is discharged.

22nd January 1996

( S.K.Keshote, J. )